

UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION**NOTIFICATION (DRAFT)****No. UPERC/Secy/Regulation/****Lucknow : Dated, , 2010**

In exercise of powers conferred under sections 61, 66, 86(1)(e) and 181 of the Electricity Act, 2003 and all other powers enabling it in this behalf, and after previous publication, the Uttar Pradesh Electricity Regulatory Commission hereby makes the following regulations, namely:

1. Short Title and Commencement

- 1.1 These regulations may be called the UPERC (Promotion of Green Energy through Renewable Purchase Obligation) Regulations, 2010.
- 1.2 These regulations shall come into force from the date of their publication in the Official Gazette.
- 1.3 These regulations shall apply throughout the State of Uttar Pradesh.

2. Definitions and Interpretations

- 2.1 In these regulations, unless the context otherwise requires,
 - (a) “**Act**” means the Electricity Act, 2003 (36 of 2003);
 - (b) “**captive user**” means the end user of the electricity generated in a captive generating plant and the term ‘captive use’ shall be construed accordingly;
 - (c) “**Central Agency**” means the agency operating the National Load Despatch Centre or such other agency as the Central Commission may designate from time to time;
 - (d) “**Central Commission**” means the Central Electricity Regulatory Commission referred to in sub-section (1) of section 76 of the Act;

- (e) “**Certificate**” means the renewable energy certificate issued by the Central Agency in accordance with the detailed procedures laid down by it and under the provisions specified in the CERC REC Regulations ;
- (f) “**CERC REC Regulations**” means the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 and amendment thereof;
- (g) “**Commission**” means the Uttar Pradesh Electricity Regulatory Commission as referred to in sub-section (1) of section 82 of the Act;
- (h) “**eligible entity**” means the entity eligible to receive the certificates under the CERC REC Regulations ;
- (i) “**floor price**” means the minimum price as determined by the Central Commission in accordance with the CERC REC Regulations as amended from time to time, at and above which the certificate can be dealt in power exchange;
- (j) “**forbearance price**” means the ceiling price as determined by the Central Commission in accordance with the CERC REC Regulations, as amended from time to time, within which only the certificate can be dealt in power exchange;
- (k) “**MNRE**” means the Ministry of New and Renewable Energy, Government of India;
- (l) “**obligated entity**” means the distribution licensee, captive user and open access consumer in the state, which is mandated to fulfill renewable purchase obligation under these regulations;

- (m) “**open access consumer**” means the consumer availing open access under sub-section (2) of section 42 of the Act;
- (n) “**Power Exchange**” means any exchange operating as the power exchange for electricity in terms of the orders issued by the Central Commission;
- (o) “**preferential tariff**” means the tariff fixed by the Appropriate Commission for sale of energy from a generating station based on renewable energy sources to a distribution licensee;
- (p) “**renewable energy sources**” means renewable electricity generating sources such as small hydro, wind, solar, biomass, bio fuel, cogeneration (including bagasse based co-generation), urban or municipal waste and such other sources as recognized or approved by MNRE or State Government;
- (q) “**renewable purchase obligation**” means the requirement as specified in clause 4 hereof, under clause (e) of sub-section (1) of section 86 of the Act, for the obligated entity to purchase electricity generated from renewable energy sources;
- (r) “**State**” means the State of Uttar Pradesh;
- (s) “**State Agency**” means the agency in the State as designated by the Commission under clause 8.1 hereof ;
- (t) “**year**” means a financial year.

2.2 Words and expressions used in these regulations and not defined herein, shall, unless the context otherwise requires, have the same meanings as assigned to them respectively in the Act or any other regulation specified by the Commission, as the case may be.

3. Scope and Extent of Application

- 3.1 These regulations shall apply to generating companies, in respect of the grant of accreditation by the State Agency to the renewable energy projects.
- 3.2 These regulations shall be applicable to distribution licensees, captive users and open access consumers.

4. Renewable Purchase Obligation

- 4.1 Every obligated entity shall purchase a minimum percentage of its total consumption of electricity (in kWh) from renewable energy sources under the renewable purchase obligation during each financial year.

The minimum percentages referred to above are given below in Table – A:

Year	Minimum quantum of purchase from renewable energy sources as % age of total energy consumed (in kWh)		
	Non-Solar	Solar	Total (2+3)
(1)	(2)	(3)	(4)
2010-11	3.75	0.25	4
2011-12	4.50	0.5	5
2012-13	5.0	1	6

Provided that if adequate power from solar energy is not available for purchase and/or the renewable purchase obligation mentioned in column (3) above, additional non-solar energy over and above that shown in column (2) above shall be purchased, with the permission of the Commission, for fulfillment of total renewable purchase obligation in accordance to column (4) above:

Provided further that such obligation to purchase renewable energy shall be inclusive of the purchases, if any, already being made from renewable energy sources by the concerned obligated entity:

Provided also that the power from renewable energy sources being purchased by the distribution licensees under the existing power purchase agreements shall continue to be till the validity of the existing agreements, even if the total purchases under such agreements exceed the percentages specified hereinabove.

- 4.2 The Commission may, either on its own motion or on recommendation of the State Agency or on receipt of an application from the obligated entity, revise for any year the percentage targets given in clause 4.1 hereinabove as deemed appropriate.
- 4.3 The renewable purchase obligation specified for the year 2012-13 shall continue beyond 2012-13 until any revision is effected by the Commission in this regard.
- 4.4 The renewable purchase obligation so specified in these regulations shall supersede the renewable purchase obligation as may be mentioned in any other regulation or order thereof the Commission.

Explanation - The purchases by an obligated entity at preferential tariff, if any, from a generating station based on renewable energy sources shall continue to be inclusive in the renewable purchase obligation.

5. Certificates under the Regulations of the Central Commission

- 5.1 Subject to the terms and conditions contained in these regulations, the certificates issued under the CERC REC Regulations shall be the valid instrument for the discharge of the mandatory obligations set out in these regulations for the obligated entities to purchase electricity from renewable energy sources:

Provided that in the event of the obligated entity fulfilling the renewable purchase obligation by purchase of certificates, the obligation to purchase electricity from generation based on solar energy source can be fulfilled by purchase of solar certificates, and the obligation to purchase electricity from generation based on renewable energy other than solar can be fulfilled by purchase of non-solar certificates.

- 5.2 Subject to such directions as the Commission may give from time to time, the obligated entity shall act consistent with the CERC REC Regulations in regard to the procurement of the certificates for fulfillment of the renewable purchase obligation under these regulations.
- 5.3 The certificates purchased by the obligated entities from the power exchange in terms of the regulation of the Central Commission mentioned in clause 5.1 hereinabove shall be deposited by the obligated entities to the State Agency in accordance with the procedure laid down under these regulations.
- 5.4 In case of genuine difficulty in complying with the renewable purchase obligation on account of non-availability of renewable power or certificates, the obligated entity can approach the Commission to carry forward the compliance requirement to the next year.

6. **Obligated Entities**

6.1 Distribution Licensee

- 6.1.1 Every distribution licensee shall on a yearly basis on or before 15th March submit to the State Agency, along with details of the estimated quantum of purchase from renewable energy sources for the ensuing year. The estimated quantum of such purchase shall be in accordance with clause 4. In the event of the actual consumption being different from that approved by the Commission, the commitment towards renewable purchase quantum shall be deemed to have been modified to that extent in accordance with clause 4.

- 6.1.2 The distribution licensee shall submit quarterly status to the State Agency in respect of compliance of renewable purchase obligation in accordance with the procedure as referred to in clause 8.2.
- 6.1.3 The distribution licensee shall also submit a detailed statement to the State Agency under intimation to the Commission at the end of each year in respect of compliance of renewable purchase obligation.
- 6.1.4 Despite availability of power from renewable energy sources and certificates, if the distribution licensee fails to fulfill its commitment towards minimum purchase from renewable energy sources, it shall liable to deposit amount as per clause 7.
- 6.2 Captive User and Open Access Consumer
- 6.2.1 Every captive user and open access consumer shall have to submit in advance necessary details regarding total estimated consumption of electricity and the quantum of power proposed to be purchase from renewable energy sources for fulfilling its renewable purchase obligation. The details shall be submitted to the State Agency on a yearly basis on or before 15th March.
- 6.2.2 Captive user and open access consumer shall purchase power from renewable energy sources in accordance with clause 4. They may also fulfill their renewable purchase obligation through purchase of certificates. If the captive user or open access consumer is unable to fulfill the minimum purchase criteria, then it shall deposit into a separate fund the amount as per clause 7.
- 6.2.3 The captive user and open access consumer shall submit under affidavit a detailed statement in respect of compliance of renewable purchase obligation to the State Agency at the end of each year under intimation to the Commission.
- 6.2.4 The captive user and open access consumer shall submit quarterly status to the State Agency in respect of compliance of renewable purchase obligation in accordance with the procedure as referred to in clause 8.2

7. **RPO Regulatory Fund**

If the obligated entity does not fulfill its commitment towards minimum purchase from renewable energy sources during any year as provided in these regulations, the Commission may direct the obligated entity to deposit into a separate fund such amount as the Commission may determine on the basis of the shortfall in units of renewable purchase obligation, RPO Regulatory Charges and the forbearance price. For this purpose, a fund shall be created and maintained by such obligated entity in accordance with the procedure as referred to in clause 8.2:

Provided that RPO Regulatory Charges shall be equivalent to the applicable preferential tariff for solar or non-solar renewable energy sources or any other rate as may be stipulated by the Commission:

Provided further that the RPO Regulatory Fund so created shall be utilised, as may be directed by the Commission, for purchase of the certificates or for development of transmission and distribution infrastructure in the State related to generating stations based on renewable energy sources or in any other manner as may be stipulated by the Commission:

Provided further that the Commission may empower the State Agency to procure out of the amount available in the fund the required number of certificates from the Power Exchange:

Provided also that the obligated entity shall be in breach of these regulations if it fails to deposit the amount directed by the Commission within fifteen days from the date of communication of the direction:

Provided also that where any obligated entity fails to comply with the obligation to purchase the required percentage of power from renewable energy sources and/or the renewable energy certificates, it shall be liable for action as may be decided by the Commission.

8. State Agency and its Functions

8.1 The State Agency shall act as the agency for accreditation and recommending the renewable energy projects for registration and to undertake such functions incidental to the compliance of renewable purchase obligation as may be assigned by the Commission from time to time:

Provided that the Commission shall, by general or special order, designate as it considers appropriate any agency to function as State Agency.

8.2 The State Agency shall discharge its functions in accordance with the procedure laid down under these regulations:

Provided that the procedure shall be issued by the Commission in consultation with the State Agency and other stakeholders, by general or special order as the Commission considers appropriate.

8.3 The Commission may issue directions to the State Agency with regard to the discharge of its functions and the State Agency shall comply with those directions.

8.4 The State Agency shall act in a manner consistent with the provisions of the CERC REC Regulations, to the extent applicable to it.

8.5 The State Agency shall submit to the Commission a quarterly status and an annual statement regarding compliance of renewable purchase obligation by the obligated entities, in accordance with the procedure as referred to in clause 8.2 and may submit recommendations, if any to the Commission.

8.6 The Commission shall, either on its own motion or on request of the State Agency, constitute by an order as deemed appropriate a co-ordination committee for facilitating the implementation of these regulations:

Provided that the State Agency shall nominate any one of its officer to head such committee.

9. Eligibility for Accreditation

A generating company engaged in generation of electricity from renewable energy sources shall be eligible to apply for accreditation subject to following conditions:

- (a) it has connectivity to the State network;
- (b) it does not have any power purchase agreement for the capacity related to such generation to sell electricity at a preferential tariff determined by the Commission; and
- (c) it posses the necessary infrastructure required to carry out energy metering and time-block wise accounting .

10. Grant of Accreditation

Subject to the procedure as referred to in clause 8.2:

- 10.1 A generating company fulfilling the eligibility criteria as provided in clause 9 may apply for accreditation with the State Agency:

Provided that the application for accreditation shall also include geographical location of the applicant, metering details, point of injection and quantum of power to be injected to the State grid/network for which accreditation has been applied for.

- 10.2 The State Agency shall, in consultation with the concerned transmission licensee and/or distribution licensee, process the application and grant accreditation or otherwise to the applicant within thirty days from the date of receipt of application:

Provided that an applicant shall be given a reasonable opportunity of being heard before his application is rejected:

Provided further that in case application is rejected, then the reasons for rejection shall be recorded in writing:

Provided also that in case the State Agency faces any difficulty in the process of consultation or coordination, it may approach the Commission for appropriate directions.

- 10.3 A person aggrieved by the decision of the State Agency under proviso to clause 10.2 may approach the Commission for redressal within fifteen days from the date of receipt of communication of such decision and the Commission may pass order, as deemed appropriate.
- 10.4 Accreditation shall be valid for a period of five years from the date of accreditation certificate unless otherwise revoked prior to expiry of such validity period under clause 13.
- 10.5 Grant of accreditation shall not entitle an applicant to inject any such power to the State grid/network unless the applicant/renewable energy generating company or buyer, as the case may be, obtains open access in accordance with the regulations specified by the Appropriate Commission:

Provided that if a generating plant is embedded in the distribution system of a distribution licensee, it shall not require to obtain open access for supplying electricity to such licensee.

11. Renewable Energy Pricing under REC mechanism

The generating company (i.e. eligible entity), after obtaining accreditation, shall sell the electricity so generated and subsequently obtains and sells renewable energy certificates (representing environmental attributes associated with renewable energy generation) in the following manner:

- (a) it shall sell the electricity generated either -
- (i) to the distribution licensee(s) of the State, at a price not exceeding the pooled cost of power purchase of such distribution licensee(s);
 - (ii) to any other licensee, open access consumer or a captive user in the State at a mutually agreed rate;
 - (iii) to any person through power exchange.

Explanation- for the purpose of these regulations 'Pooled Cost of Power Purchase' means the weighted average pooled price at which the distribution licensee purchased electricity including cost of self generation, if any, in the previous year from all the long-term and short-term energy suppliers, but excluding those based on renewable energy sources, as the case may be.

- (b) it shall obtain certificates from the Central Agency based on certified injection report of SLDC;
- (c) it may sell the certificates in power exchange within the band of a floor price and a forbearance price subject to the provisions of CERC REC Regulations:

Provided that the Central Commission may, in consultation with the Central Agency and Forum of Regulators, from time to time provide for the floor price and forbearance price separately for solar and non-solar certificates:

Provided further that, with the progressive development of the electricity sector, the pricing methodologies for electricity component and renewable energy certificates shall be reviewed at periodic intervals as may be considered appropriate by the Commission.

12. Monitoring during Accreditation

Subject to the procedure as referred to in clause 8.2 , the State Agency shall, in coordination with concerned transmission licensee and/or distribution licensee, monitor the accredited project, maintain operation of accounts and undertake other functions incidental to the monitoring of such accredited project:

Provided that generating company after obtaining accreditation shall submit to the State Agency annual status to the State Agency in respect of accreditation and other matters connected therewith:

Provided further that an application for extension of validity of existing accreditation shall be made to the State Agency at least ninety days prior to expiry of validity of existing accreditation.

13. Revocation of Accreditation

- 13.1 If the State Agency, after making an enquiry or based on the report of Central Agency, is satisfied that public interest so requires, it may revoke accreditation of the renewable energy generating company where such company (a) breaches any of the terms and conditions of its accreditation which is expressly declared by such accreditation so as to render it liable to revocation; and (b) makes willful and prolonged default, in the opinion of the State Agency, in doing anything required of it by or under these regulations.
- 13.2 The State Agency before revoking the accreditation under clause 13.1 shall give to such renewable energy generating company reasonable opportunity for being heard.
- 13.3 Notwithstanding the provisions of clause(s) 13.1 and 13.2, the Commission may from time to time direct the State Agency to initiate enquiry and/or revocation process against such renewable energy generating company if the Commission deems it fit.

13.4 A person aggrieved by the decision of the State Agency under clause 13.1 may approach the Commission for redressal within fifteen days from the date of such decision being communicated and the Commission may pass order, as deemed appropriate.

14. Fees and Charges

14.1 The Commission may from time to time, based on the proposal in this regard from the State Agency or on its own motion, determine, by order, the **fees and charges payable by the obligated entities and/or the persons applying for accreditation, and for maintaining the validity of accreditation and other matters connected therewith.**

14.2 The fees and charges payable may include non-refundable application fee, one-time accreditation fee, annual fee and other charges for discharging its function in accordance with these regulations, as the Commission may consider appropriate.

14.3 The fees and charges paid by the obligated entities and the renewable energy generating companies shall be collected by the State Agency and utilised in consultation with the Commission.

15. Information System

The State Agency shall post the following documents / information on its website in a separate web-page titled "Accreditation of RE Projects":

- (a) These regulations;
- (b) Procedure as mentioned in these regulations;
- (c) List of applications along with necessary details received by the State Agency for accreditation ;
- (d) List of accreditation granted, indicating-

- (i) Name of RE generating company/station;
 - (ii) Point of injection;
 - (iii) Capacity (MW) for which accreditation has been granted.
- (e) List of applications where approval for accreditation has not been granted along with reasons thereof;
- (f) Status of compliance of obligated entities in respect of RPO.

16. Redressal Mechanism

All disputes arising out of or under these regulations shall be decided by the Commission on a petition made in this behalf by the person aggrieved.

17. General Power to Amend

The Commission may, at any time and on such terms, as it may think fit, amend any defect or error in any Proceeding before it, and all necessary amendments shall be made as required thereof.

18. Power to relax

The Commission, for reasons to be recorded in writing, may vary/delete/modify any of the provisions of these regulations on its own motion or on an application made before it by an interested person.

19. Miscellaneous

19.1 Nothing in these regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuse of process of the Commission.

19.2 Nothing in these regulations shall bar the Commission from adopting a procedure in conformity with the provisions of the Act, and is at variance with any of the provisions of these regulations, if the Commission, in view of the special

circumstance of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for so dealing with such a matter or class of matters.

(Secretary)